

Meeting Minutes for the Special and Regular Meeting of the Belmont City Council

Tuesday, February 11, 2003

STUDY SESSION: 6:45 P.M.

Discussion and Direction on Policy Matters for Permanent Encroachments

Attended by Councilmembers Bauer, Metropulos, Warden (arr. 6:50), Mayor Wright; City Manager Kersnar, Assistant City Manager Rich, City Attorney Savaree, Public Works Director Davis, City Clerk Cook.

Public Works Director Davis reviewed the current policies, practices and procedures for permanent encroachment permits. He provided information on the various types of encroachments, and stated that over the years the City has issued a total of 326 permanent encroachment permits. He outlined the findings that need to be made to grant a permit and provided various examples of public benefit that need to be established in order to qualify for an encroachment permit. He further stated that staff was seeking Council direction on the following policy issues: 1) should the City redefine roadway right-of-way and vacate excess right-of-way to the adjacent property owners, 2) should the City grant a permanent encroachment permit to property owners primarily for expansion of existing footprint, 3) should the criteria to establish public benefit be changed, 4) should the City charge for the use of public right-of-way, and 5) should the permanent encroachment permit process be revised?

In response to Council questions regarding liability and maintenance, City Attorney Savaree advised that if the right-of-way is vacated and turned over to the adjacent property owner, the City is released from any future liability. She clarified that under the current permanent encroachment policy, the owner is responsible for maintenance and indemnification of the City for liability.

In response to a question regarding charging a fee for a parking space built in the public right-of-way, staff clarified that some cities charge a flat fee, but enforcement can be problematic.

Councilmember Warden stated that if an owner is going to build something that is of public benefit, such as a sidewalk or a public parking space, there should be a fee for the encroachment, and it is subject to approval. He further stated that if someone is going to build private parking, or will be

developing in the public right-of-way, it should be fee-based, since there is a private benefit. He also stated that land use issues are in the purview of the council, and shouldn't be delegated. He further clarified that he could support administrative approval for encroachments for a very specific public benefit, such as a parking space, but not for retaining walls, which has been an issue for the Planning Commission.

Community Director Ewing stated that the Planning Commission has advised that they would like to review encroachments when they are part of a larger, integrated project.

Council and staff discussion ensued regarding clarification of encroachment issues and terminology. There was consensus that there was no desire to pursue redrawing right-of-way lines, since it would be cost-prohibitive. Council directed staff to modify and streamline the process, and to clarify the criteria. Councilmember Warden suggested the inclusion of an appeal process for administrative permits. Staff concurred, and City Manager Kersnar stated that if the criteria for the permit were not clear, the item could be brought to Council for review.

Adjournment at this time being 7:25 P.M.

REGULAR MEETING

CALL TO ORDER – 7:33 P.M.

COUNCILMEMBERS PRESENT: Metropulos, Bauer, Warden, Wright

STAFF MEMBERS PRESENT: City Manager Kersnar, Assistant City Manager Rich, Community Development Director Ewing, and City Attorney Savaree, City Clerk Cook

SPECIAL PRESENTATIONS

Presentation of Annual Report from the Peninsula Traffic Congestion Relief Alliance.

Christine Maley-Gruble, Executive Director of the PTCRA presented Council with the Alliance's Annual Report, which covered two fiscal years, and stated that the Alliance's goal was to reduce single occupancy vehicles and vehicle emissions. She also stated that Councilmember Bauer was a member of the Board of Directors of the Alliance. She outlined various programs available such as shuttles and vanpool/carpool incentives for

employers. She advised that the Alliance is available to help jurisdictions obtain funding from C/CAG for commute alternatives.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Ms. Jacobi, Friends of Belmont Library, invited Council and the public to Author Night at the Belmont Library on February 12, featuring Catherine Colter.

Mr. Gross, President of Fox PTA, invited Council and public to Fox Fiesta Auction Fundraiser on February 22 at the San Mateo Marriott.

Ms. Norton, 1630 Robin Whipple Way, complimented and thanked the water district, public works, planning and police staff for working to resolve street paving and parking issues.

Ms. Sylver, 2935 San Juan Boulevard, has concerns regarding slope stability of her neighbor's home construction project. She stated she had written letters to the city but had not received any reply to date, and that no remedial work had been done.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Bauer invited the public to attend the Annual Rotary Crab Feed at the Greek Church on February 22.

Councilmember Warden commented on the fiscal impact of the Vehicle License Fee (VLF) takeaway, and the Governor's proposal to take local property tax money away from schools. He encouraged people to write to the Governor about these issues. City Manager Kersnar stated information was available on the city's web site.

Mayor Wright read the proclamation he recently presented to Ed Morey in honor of his retirement from the Mid-Peninsula Water District after 34 years; announced that a 12-minute video about Belmont was going to air on Peninsula TV; announced the filing period was open for the June special election; and invited the public to attend his State of the City address on February 20.

AGENDA AMENDMENTS

Councilmember Bauer requested that Written Communications be removed from the Consent Calendar for separate consideration.

CONSENT CALENDAR

Approval of Warrant List dated January 24, 2003, in the total amount of \$170,635.95, and dated January 31, 2003, in the total amount of \$120,254.02.

Motion to approve Claims Management Report.

Motion to waive reading of Ordinances.

Approval of Ordinance 983 amending Chapter 5 of the Belmont Municipal Code, Animals and Fowl (2nd reading and adoption).

Approval of Resolution 9356 calling for a Public Hearing on April 8, 2003, to consider establishing a Utility Underground District on Old County Road (Rule 20A Underground Utilities Conversion).

Approval of Resolution 9357 Approving Plans and Specifications and Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount not to Exceed \$402,300.00 and Authorizing the City Manager to execute a contract for Resurfacing Streets - Various Locations, City Contract No. 448.

Approval of Resolution 9358 authorizing approving the City of Belmont's Investment Policy.

Approval of Resolution 9359 granting an extension to August 30, 2003 to Comcast to operate a cable TV system in Belmont during franchise renewal negotiations.

Action: On a motion by Councilmember Warden, seconded by Councilmember Bauer, the Consent Agenda was unanimously approved by a show of hands, with the exception of Item 4-C, Written Communications.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Written Communication 1) Notice from PG&E dated January 19, 2003, Amended Application for Gas Rate Increase.

Councilmember Bauer commented that in addition to another rate increase, PG&E is requesting a change of structure so that the California PUC would no longer oversee their operations. The body to oversee operations would be

the Federal Energy Rate Commission (FERC), which is less stringent than the California PUC. He wanted the public to be aware of these changes.

Action: On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, Item 4-C, Written Communications, was unanimously accepted by a show of hands.

PUBLIC/HEARINGS

To consider amendments to Table 7.1 - Village Center Development Standards of the Downtown Specific Plan (DTSP) and Section 5.3.13 (Floor Area Ratio - C-2 General Commercial District) of the Belmont Zoning Ordinance for the Belmont Atrium Mixed Commercial Development at 877 Ralston Avenue. The Planning Commission recommended City Council disapproval of the amendments at their December 17, 2002 meeting. (Appl. No. 01-0073), CEQA Status: Negative Declaration.

Principal Planner de Melo reviewed the background and analysis of the request for the floor area ratio amendment to the Downtown Specific Plan (DTSP). He also outlined the hearings held by the Planning Commission, and that on December 17, 2002, the Commission recommended disapproval of the amendment. He clarified that this item was not before Council due to an appeal of the decision of the Commission, but that zoning text amendments require specific findings to be made by the Council. He further clarified that the Council would not be taking any action on the specific project as part of this public hearing.

Principal Planner de Melo described the floor area ratio (FAR) that existed on the property at 877 Ralston, as well as on the surrounding properties, and he outlined the allowable FARs under the existing DTSP, based on lot size. Approval of this amendment would change the floor area status for all properties in the Village Center, which is bounded by Ralston Avenue, El Camino Real, Waltermire Street, and Sixth Avenue.

Principal Planner de Melo stated that in order to approve the DTSP amendment, the Council must make a finding that the proposed amendment is required to achieve the goals and objectives of the City. In addition, in order to amend the zoning ordinance, the Council must determine whether the amendment is required to achieve the objectives of the Zoning Plan and General Plan for the City.

He further advised that the Planning Commission's basis for disapproval was that the existing policies of the DTSP provided sufficient guidance to allow

for evaluation of redevelopment in this zoning district. Other properties have been developed or redeveloped without the zoning amendment requested by the applicant. In addition, the Commission felt that the amendment was premature, since the City was about to embark on a visioning process as part of a General Plan Update.

In response to a question by Councilmember Warden, staff clarified that residential use is neither conditional nor permitted within the Village Center zoning area. Staff further clarified that the Planning Commission and Council had reviewed a prior proposal by the applicant that included residential units, but direction had been given to the applicant that residential use was not allowed under the DTSP standards for the Village Center.

In response to a question by Councilmember Metropulos regarding the DTSP document, Principal Planner de Melo responded that he believed the applicant was familiar with and had received a copy of that document.

John Ward, on behalf of Ralston Associates, property owner, outlined the three-year review and application process with the Council and Planning Commission. He clarified that the current proposal is based on financial necessity, and that if the amendments are not approved, the project would be abandoned and the existing building would only undergo minor cosmetic improvements. He further stated that the FAR on Safeway and the Belmont Village Center is less than .5, that the Village Center was made financially feasible by the Belmont Redevelopment Agency, and that the size of Safeway was driven by the parking requirement. He stated that throughout their application process, there was compliance on all aspects until the FAR problem was noted.

Mr. Ward described the community outreach process, and that response has been positive and continues to grow. He presented a petition with 820 signatures.

Peter Jordan, one of the applicants, stated that the Planning Commission had approached the doctors five or six years ago to ask them to redevelop their building, and promised RDA money. At that time they hired Mr. Ward and worked with an architect to develop conceptual plans. Mr. Jordan reviewed the process of their application to date, and stated they had spent about \$200,000 and had lost rental revenue. He reiterated that they would abandon the project if the amendments were not approved.

Councilmember Warden replied that he was on the Planning Commission during the time stated by Mr. Jordan, but did not recall any discussions with the doctors as described. He also stated that the initial application by the

doctors was contrary to the DTSP relative to building orientation and the inclusion of residential units. He wanted to clarify that the City did not impose these restrictions, but that they were called out in the DTSP.

Mr. Jordan stated that the architect erred in not advising the doctors of the restrictions outlined by Councilmember Warden, but also clarified that City staff never advised them, either. **Mr. Ward** clarified that it was planning staff, not the commission, who had approached the doctors initially.

Council discussion ensued regarding a flyer generated and distributed by the applicant and the project proponents, and clarification was made that the \$200,000 study referenced in the flyer referred to a prior study for Block 4, the Walgreen's block. Clarification was also made that the upcoming visioning process is for the whole city, not just for the downtown.

Phil Mathewson, Chair of the Planning Commission, outlined the action taken by the Planning Commission regarding its recommendation by a vote of 7-0 not to amend the DTSP. He stated that the following points were made during the Commission's deliberations:

1. The DTSP should not be amended for the benefit of one developer and one project, and it was not required in order to meet the goals and objectives of the DTSP and the General Plan. Other projects within the same zoning district had been completed under existing guidelines and were successful and viable.
2. Some commissioners felt that more density may be needed in order to redevelop the downtown at a faster pace than currently exists. The Commission felt that if the community wanted to change development standards for the downtown, the upcoming visioning process and the General Plan Update would be the time to implement this change.
3. Although the project itself was not a focus of detailed discussion at the Planning Commission level, there had been minimal changes made in the current plan since 1999, and that design aspects such as bulk, mass, height, and parking requirements had largely been ignored by the applicants.
4. The Commission recognized that the Council relies on recommendations of the Commission when making policy decisions such as this one, and reiterated the recommendation of denial.

Mayor Wright opened the Public Hearing.

Jane Kochendorfer, Shirley Road, stated the City should stick with the existing downtown plan and the applicants should build a smaller building that fits within that plan.

Alec Little, O'Neill Avenue, has a background in architectural design, understands FAR, stated he read the DTSP in one evening, that the project is missing elements, and that the General Plan is the appropriate time to amend the DTSP, if necessary.

Mary Ridge, Hiller Street, stated that it will be 10 years before anything will be built if the amendment is not approved.

Judy King, Fifth Avenue, stated the amendment isn't required, and recommended upholding the Planning Commission decision.

Alicia Torre, Buckland Avenue and Planning Commissioner, stated that the unanimous vote of the Commission was not an opposition to the project or to an increase in FAR in the downtown. She also stated that the amendment could speed up the process for redevelopment of the downtown, which was a policy decision for the Council.

Janet Pepe Davis, South Road, concurred with comments of Commissioner Torre.

Jim Bigelow, Vine Street, also agreed with comments of Commissioner Torre, and added that C/CAG funds for transit development might be available.

David Bomberger, Arbor Avenue and member of Downtown Task Force, clarified that the goals of the DTSP were for lower intensity development, and stated that a .75 FAR was intended as an incentive for large parcels, and that this amendment would be detrimental.

Diane Keogh, Carlmont Drive, stated that the amendment would set a precedent and recommended upholding the Planning Commission decision.

Mary Parden, business owner, urged approval of the amendment, and stated the DTSP is relatively new, should be considered a dynamic document, and it has been amended previously.

Ed Morey, Buena Vista Avenue, stated that everyone has wanted a downtown for 40 years and the applicant is ready to redevelop their property.

John Thielen, Pine Knoll Avenue, is in favor of the amendment, and stated that the project is good for Belmont and that the architect has done a good job.

Hartley Laughead, Sequoia Way, stated that a plan is already in place, loss of money isn't the responsibility of Council, and doesn't feel the project fits into the Victorian theme of downtown.

Jeff Keuscher, Alameda de las Pulgas, stated the City needs a vision, this project gives vision, and economic feasibility is an issue that should be considered.

Denny Lawhern, Hiller Street, supports the project, and stated that the Village Center was given RDA money, and Safeway was given concessions.

Adele Della Santina, representing the Chamber of Commerce, stated that low density was not feasible for this project, that the Chamber is unanimous in its approval, and felt that the Planning Commission's vote was not against redevelopment but was based on the specific findings that needed to be made.

Merrill Higham, Alameda de las Pulgas, stated that the issues are compelling to make the amendment.

Harry Filer, Lyndhurst Court, stated he attended the Planning Commission meeting, and agrees with Commissioner Torre.

Woody Shackleton, St. James Road, stated he would prefer the amendment only for this project, and that he likes the project, even if it's not perfect.

Ric Denman, Witheridge Road, stated this project is an enhancement, and not approving would be a lost opportunity.

Doris Barbegelata, Holly Road, stated she likes the design, that the project impacts and size are not an issue, and that her mission is a beautiful Belmont.

Aldo Pardini, Altura Way, was speaking on behalf of the project, and also spoke about goals of the City, and how they shouldn't be changed often.

Gail Gandolfi, Casa Bona Avenue, stated she supports the Planning Commission's decision.

Robert Barbegelata, Holly Road, stated there must be something wrong with the Downtown Plan if the City needs a new plan, and that this project allows us to think out of the box.

Deborah Stephens, Molitor Road, supports the project and the amendment, that the project probably isn't a good financial risk, but she supports the risk.

Elizabeth Wiecha, Miramar Terrace and Planning Commission member, stated she opposes the amendment, feels it should be done in connection with the visioning process and in conjunction with all of downtown, including the El Camino, and that it's a piecemeal approach to planning.

Don Shoecraft, Bayview Avenue, supports the amendment, and stated that the visioning process will result in either a reduction in FAR, no change, or an increase.

Gary Harris, Forest Avenue, former Planning Commissioner and City Council member, clarified that the Village Center and Safeway projects were granted RDA money, the General Plan update is long overdue, the DTSP is too restrictive, and supports the amendment.

Sal San Filippo, Paloma Avenue, stated he has looked at the current building for 50 years, and supports the amendment.

Warren Ledwith, Paloma Avenue, likes the project, and feels that it will make Walgreen's look bad.

Action: On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, and approved unanimously by a show of hands, the Public Hearing was closed.

RECESS 9:40 P.M.

RECONVENE 9:53 P.M.

Mr. Ward clarified that a .75 FAR is applicable on parcels of one acre or greater, and the only applicable parcel is Safeway. He also stated he agreed with the speakers that Council has an opportunity, the amendment is justified, and the findings can be made. He outlined the changes that had been made to the project since it was first presented.

Councilmember Metropulos stated that the objectives of the DTSP are intended for land uses that will capture sales tax revenues, and that this project has only one floor of retail. To amend the DTSP, revenues should be captured. He further stated that he was struggling with the amendment versus an attractive project.

Councilmember Bauer stated that this process is dynamic and fluid, and something that should be addressed as times change. He agrees with Commissioner Torre, and also agreed with comments made during the Planning Commission meeting that not much has happened downtown. He stated that he likes the building, doesn't think it's too large, and supports the amendment. He further stated that the project is privately funded, needs no City funds, and would be an enhancement to the downtown.

Councilmember Warden disagreed that nothing has taken place downtown, and cited examples of completed projects in the redevelopment area. He stated that he is uncomfortable with many aspects of the drawings for the proposed project, and agreed that the existing building is not good. He was not anxious to make the amendment.

Mayor Wright stated that there is value to looking at a specific project while evaluating a policy decision. He has advocated for higher density in the downtown, he liked the mixed use of the previous plan, but was alone in his opinion at that time. He further stated that other projects in the area required RDA money, but that this project represented a local developer willing to make a change without that assistance. He further stated that the amendment isn't a big issue and that the change won't generate as tall a building as some feel it would. He supports the amendment.

In response to a question by Councilmember Metropulos, City Attorney Savaree clarified that if the amendment were approved, it would only change the policy of the DTSP, and that the Planning Commission would still need to review the specific project for all entitlements.

Councilmember Warden stated that he had concerns regarding the effect of this amendment on the rest of downtown, which has not been addressed. Community Development Director Ewing clarified that the amendment would raise the FAR from .5 to .65 on properties between one-half and one acre in size, and currently only two properties would benefit from the amendment.

Action: On a motion by Councilmember Bauer, seconded by Mayor, and approved unanimously by a show of hands, Resolution 9360 approving and amending Table 7.1 – Village Center Development Standards of the Downtown Specific Plan.

Councilmember Metropulos credited the applicants for taking a risk on this project, but he suggested they work closely with the Planning Commission to come up with a good design. Councilmember Warden stated he also had concerns with the design, but felt that the Conditional Use Permit and Design Review process will address those issues.

Action: On a motion by Mayor Wright, seconded by Councilmember Bauer, and approved unanimously by a show of hands, to introduce an ordinance amending Section 5.3.13 (Floor Area Ratio - C-2 General Commercial District) of Belmont Zoning Ordinance 360, to waive further reading, and to set the second reading and adoption on February 25, 2003.

Action: On a motion by Councilmember Warden, seconded by Councilmember Metropulos, and approved unanimously by a show of hands, Resolution 9361 approving a Negative Declaration of Environmental Significance for a Downtown Specific Plan (DTSP) amendment for Table 7.1 of the Village Center Development standards and Zone Text Amendment to Section 5.3.13 (Floor Area Ratio – C-2 General Commercial District) of the Belmont Zoning Ordinance.

RECESS 10:22 P.M.

RECONVENE 10:28 P.M.

Action: the time being 10:30, on a motion made by Councilmember Warden, seconded by Councilmember Bauer, and unanimously approved by a show of hands, the meeting was extended by 10 minutes.

OLD BUSINESS

Biannual Review of the Council Priority Calendar: Step 1, and Review of Priority Calendar Process

Assistant City Manager Rich reported that the Council's procedure for review of the Priority Calendar is a 3-step process: 1) review current projects, 2) include new items, and 3) rank. He advised that the Arts Commission recommended the addition of youth commissioners to their commission, which would be included in Step 2. In addition, per Council direction, findings for Planned Development (PD) districts would be included.

Assistant City Manager Rich advised that options for changing the process could include an annual process rather than bi-annual, combining some of the steps, and changing the timing.

Council discussion ensued regarding all the options, and there was consensus to have the Council review the list every six months, once in the Fall and once in the Spring, and to have the commissions review yearly to tie into the Budget process.

Action: the time being 10:40, on a motion made by Councilmember Bauer, seconded by Councilmember Warden, and unanimously approved by a show of hands, the meeting was extended by 10 minutes.

Status of Commission Applicants

City Clerk Cook described the pool of candidates available for the commission openings, and advised that two applications had been received after the deadline. Council concurred that the pool of applicants was sufficient, and to include the two late applications. Interview dates had been confirmed previously.

NEW BUSINESS

Discussion and direction regarding a proposal to de-annex three lots on Club Drive to allow annexation to San Carlos.

Community Development Director Ewing stated that an annexation application had been received by the Local Agency Formation Commission (LAFCo) to de-annex three lots on Club Drive and annex them to San Carlos. He advised that Belmont receives the property taxes, but that most services are provided by San Carlos. He further advised that the intent of the annexation process is to keep the cities whole.

Council discussion ensued, and direction given to move forward with de-annexation and work out tax sharing details with San Carlos.

ADJOURN TO CLOSED SESSION 10:50 P.M.

Terri Cook

City Clerk

Meeting Tape Recorded & Videotaped

Tape #546

CLOSED SESSION

Conference with Legal Counsel, Existing Litigation, pursuant to Government Code Section 54956.9, Eckert v. Belmont, San Mateo Superior Court Case No. CIV424959

Councilmembers Present: Metropulos, Bauer, Warden, Wright

Staff Members: City Manager Kersnar, Assistant City Manager Rich, Community Development Director Ewing, and City Attorney Savaree. City Clerk Cook was excused from attending.

ADJOURNMENT 11:02 P.M.

Terri Cook

City Clerk

Meeting not tape recorded.